

Arguments over Obligation
Teaching Time and Place in Moral Philosophy

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Introduction

There seems to be a degree of agreement about what might count as the ‘new’ histories of philosophy. In the Epilogue to his monumental *The Invention of Autonomy*, J. B. Schneewind provides a snapshot of the old and the new, pointing to the difference between histories of moral philosophy that assume a chain of thinkers all trying to solve the same problem and those newer histories that drop this assumption in favour of a “variable-aim approach”. In accordance with the newer approaches: “We will not, in particular, suppose that everyone who thought about morality in a way we consider philosophical was trying to solve the same problem or answer the same questions. We will think instead that the aims of moral philosophy — the problems that moral philosophers thought required reflection — are at least as likely to have changed as to have remained constant through history”. To approach past philosophers in terms of their own problems and arguments, instead of those we now deem essential, we must adopt an historical investigative attitude. “Here”, Schneewind comments, “only historical information, and not rational reconstruction of arguments in the best modern terms, will tell us what we need to know” (Schneewind 1998: 550-1). Finally, if the historical course of moral philosophy is not governed by a single problem and its one true solution then, in order to take up the historical attitude, we must not assume that philosophy advances by coming closer to this truth or, presumably, that it ‘advances’ in any particular direction at all:

Failure to achieve coherence or to produce valid supporting arguments may explain the change in some cases. But the single-aim view leaves unexplained a great deal that the historian will naturally wish to consider. Why do some theories emerge and flourish and then disappear, why do some recur, why is there so little convergence, what does moral philosophy as a practice or discipline do in and for the societies in which it is supported? It is more useful for the historian to turn away from the single-aim view and adopt a variable-aim approach instead. (Schneewind 1998: 553)

Schneewind thus offers some important pointers to histories of moral philosophy that are new in the sense of dropping the assumption that history advances (or regresses) along a single problem-path towards a true solution, requiring us instead to identify the problems over which philosophers struggled, the contexts driving these

struggles, and the circumstances leading to always-contingent triumphs. History of philosophy written in this style may not be absolutely new, yet it feels novel because during the second half of the twentieth century the history of philosophy was overshadowed or colonised by particular practices of philosophy. In Germany, it was post-Kantian metaphysics in the form of Hegelian philosophical history and, especially, Husserlian transcendental phenomenology that dominated the *Geisteswissenschaften*, giving rise to a present-centred history of philosophy focused on the goal of a rational moral autonomy (Mommensen 2001). Especially in the hands of Jürgen Habermas and the critical theorists this led to a single-aim view in which the history of philosophy is seen as one long series of attempts to bring the transcendental moral law down to earth, by embodying it in the process of discourse, understood as the intersubjective exercise of rational autonomy (Habermas 1992). In the American setting, those influenced by the towering figure of John Rawls have produced a similarly monocular history, albeit on different metaphysical premises (Ball 2001: 121). On this view, the history of moral philosophy is a long chain of failed attempts to reconcile rationalism and voluntarism — or the light of transcendental reason and the obligating force of moral command — leading up to Kant's epochal recovery of the self-commanding rational will (Korsgaard 1996b).

Given the commanding presence of these philosophies in today's humanities academy — itself testimony to the intensity of the contemporary moral cultures they embody — we should take a sober view of the obstacles faced by any attempt to teach a contextualist and pluralist history of philosophy. Some of these obstacles will be institutional, as in many universities the history of philosophy is taught in predominantly analytic philosophy departments, often in the form of service courses, or as preparation for the purely theoretical discussion of canonical philosophers or problems. Located thus in the curriculum, the new history of philosophy will be still-born, as it will lack the room to develop as an independent intellectual enterprise and will be smothered by those who wrap it too tightly the problems of their philosophical heroes.

Despite its importance, however, I shall not be addressing the institutional question on this occasion. Instead, I shall concentrate on two prior questions: first, the problem of how to introduce students to philosophical argument in a contextualised and pluralist manner; and, second, the question of what kind of texts such a pedagogy requires at its disposal. The two questions are of course intimately related, as the

dominance of the single-aim present-centred approach brings with it a highly selective publication of the archive, in editions typically suited to the aims of rational reconstruction rather than historical investigation. The influence of a secondary text such as Lewis Beck's *Early German Philosophy* — symptomatically subtitled *Kant and His Predecessors* — goes together with the fact that while Kant's texts are available in numerous modernised student editions, many of the so-called predecessors (Thomasius, Wolff, Crusius, the 'popular philosophers') have not even been translated into English (Beck 1969). This was the kind of deficit that the Cambridge 'green' and 'blue' series of Texts in the History of Philosophy was intended to address and, more recently, Knud Haakonssen's ambitious series of Natural Law and Enlightenment Classics.

In this paper I shall make use of an early modern text, newly re-edited and published in Haakonssen's series, in order to show how the German moral philosopher and political historian Samuel Pufendorf — together with his critic, Gottfried Leibniz, and his apologist, Jean Barbeyrac — may be introduced to students other than as one of Kant's predecessors. The text is the first English translation of Pufendorf's *De officio hominis et civis* — rendered as *The Whole Duty of Man According to the Law of Nature* by Andrew Tooke in 1691 — which I have re-edited with David Saunders (Hunter and Saunders 2002). This new edition also includes Saunders' translation of Barbeyrac's presentation of Leibniz's famous attack on Pufendorf, in addition to the Huguenot's two discourses on natural law.¹ It thus provides a simulacrum of Barbeyrac's own French translation of the *De officio* — the most influential in early modern Europe — whose fourth edition included these additional materials as appendices, ostensibly to aid in the reception of Pufendorf's ideas (Barbeyrac and Pufendorf 1718).

Deployed in an appropriate pedagogy, this re-edited text would permit students to approach key early modern arguments — specifically those over moral and political obligation — not as fumbling approximations to later known truths, but in altogether more historical manner: as bitterly fought disputes invoking competing 'known truths' and driven by wider cultural-political struggles, hence lacking the comfort of a universally acceptable resolution. Students would thus be asked not to reconstruct the conceptions of obligation advanced by Pufendorf, Leibniz and Barbeyrac in the light of a later one presented to them as true, but to assume a quite different attitude and undertake a different series of tasks. They would be asked to adopt a posture of

descriptive enquiry oriented to an empirical historical investigation of the rival conceptions, firstly in terms of the larger doctrines informing them, and then in terms of the cultural and political issues that the participants themselves saw as at stake in their arguments. The present paper might thus be seen as providing the rationale, structure, and some of the bibliographic materials for an extended case study on arguments over obligation in early modern Europe.

1. Pufendorf's Place in Kantian Historiography

In designing a curriculum oriented to historical study of the arguments over obligation clustered around Pufendorf's moral and political philosophy, it would not be necessary, and might not be advisable, to begin with a prophylactic discussion of non-contextual approaches of the Kantian present-centred kind. For our immediate purposes, however, some such discussion is necessary, in order to clarify the orientation of such a curriculum and the conventional wisdom that it must challenge if it is to cross the threshold of historical inquiry.

In fact Pufendorf's place in the Kantian history of philosophy was prepared during the late eighteenth century. At this point Kantian philosophical theologians like Buhle, Tennemann and Stäudlin erased Pufendorf's earlier position — in which he was regarded as one of the founders of a secular civil ethics — and repositioned him as one of a series of minor thinkers who had failed in the Kantian task of harmonising voluntarist and rationalist conceptions of morality (Hochstrasser 2000: 206-12). In more recent elaborations of this view, Pufendorf is routinely regarded as someone who takes an important step along the Kantian path, by developing a ('deontological') command theory of moral obligation, but who fails to complete the journey, for lack of rational philosophical justification of the source of these commands.

The key text for these discussions is Pufendorf's construction of obligation, as it is given in the *De officio* or *Whole Duty*. Here Pufendorf stipulates that: "An *Obligation* is superinduced upon the Will of Men properly by a *Superior*; that is, not only by such a one as being *greater* or *stronger*, can punish Gainsayers: but by him who has *just Reasons* to have a Power to restrain the Liberty of our Will at his own pleasure". Neither coercion nor just reasons by themselves will create obligation, says Pufendorf, because in the absence of just reasons coercion merely terrifies without responsabilising while, in the absence of coercive force, just reasons merely inform without conforming the will. Pufendorf clearly regards the key to this combination of

coercion and just reasons as lying in the form of the just reasons [*justae causae*] themselves, which he characterises thus:

Now the *Reasons* upon which one man may *justly* exact *Subjection* from another, are; If he have been to the other the *Original* of some extraordinary *Good*; and if it be plain, that he designs the others *Welfare*, and is *able* to provide better for him than 'tis possible for *himself* to do; and on the same account does actually lay *claim* to the Government of him: and lastly if any one does *voluntarily* surrender his Liberty to another, and subject *himself* to his Direction. (*WDM*: 45)²

Modern Kantians are flatly dismissive of Pufendorf's construction of obligation as arising from legitimate superiority or subjection, itself understood in terms of the exchange of obedience for protection and care; for such an exchange or agreement does not count as a philosophical justification of the kind they require. In her commentary on Pufendorf's formula, Christine puts the point succinctly, in the form of a dilemma:

If we try to derive the authority of morality from some natural source of power, it will evaporate in our hands. If we try to derive it from some supposedly normative consideration, such as gratitude or contract, we must in turn explain why that consideration is normative, or where its authority comes from. Either its authority comes from morality, in which case we have argued in a circle, or it comes from something else, in which case the question arises again, and we are faced with an infinite regress. (Korsgaard 1996b: 30)

Given a certain set of background assumptions this knock-down argument is of course highly persuasive. One of the benefits of locating Pufendorf's obligation formula in its historical setting, however, is that we can see such arguments as strategic moves in a certain contestatory domain; and this shines a light on their underlying assumptions and the conditions of their persuasiveness. It is striking then that in his attack on Pufendorf, as presented by Barbeyrac, we find Leibniz mounting an argument almost identical to Korsgaard's:

Perceptive though he was, the author [Pufendorf] fell into a contradiction for which I do not see how he could easily be excused. For he bases all legal obligation on the will of a superior ... Yet, shortly afterwards, he then says that a superior must have not only power sufficient to oblige us

to obey him, but also just cause for claiming a certain power over us (Book I, chapter ii, part 5). Therefore the justice of the cause precedes the establishment of the superior. If to discover the source of the law a superior must be identified, and if, on the other hand, the authority of the superior must be founded in causes drawn from the law, then we have fallen into the most blatant circularity ever. (*WDMJ*: 300)

It is immediately clear in the context, however, that this charge of circularity only works against the background of two metaphysical assumptions: namely, that humans are beings capable of inner rational self-governance; and that rationally binding norms must be self-grounding, otherwise we could ask, for any putative source of norms, what makes *this* normative? Leibniz specifies this self-grounding source of normativity in his comment that “the rule of His [God’s] actions, like the very nature of justice, depends not on a free decision of His will, but rather on the eternal truths which are the objects of the divine mind and which are established, so to speak, by His divine essence” (*WDMJ*: 289). Korsgaard shares both these assumptions, but differs from Leibniz in locating the self-grounding source of normativity not in divine mind but in a totality of rational beings — Kant’s “kingdom of ends” — whose collective willing constitutes a self-grounding moral law and an ultimate moral identity (Korsgaard 1996b: 98-105). It is this second assumption in particular that allows Leibniz and Korsgaard to argue the circularity of Pufendorf’s derivation of legitimate superiority from just causes — that is, the exchange of obedience for protection — on the grounds that this exchange must either itself be moral (in the sense of being morally self-grounding) or not (in which case it must derive its normativity from a higher self-grounding source).³

As we shall see, though, not only does Pufendorf not make these assumptions, but he rejects them in an explicit and highly self-conscious manner. He begins by rejecting the conception of man as a self-obligating rational being as wholly unsuited to an ethics oriented to the civil governance of a creature whose passions require externally imposed limits (*WDM*: 43-4). And he declares that the associated notion of morality, as arising from man’s participation in the excellence of the divine intellect, is incapable of showing how such a creature might be placed under obligation. Pufendorf thus views the exchange of obedience for protection (the “just reasons”) as neither essentially normative (legitimate in itself), nor as dependent on a higher truly moral source. Instead, he treats the civil pact as a profound convention or institution that

determines what will count as just or right in the civil domain which, when combined with coercive force, gives rise to the legitimate superiority from which civil obligation flows. As we shall see in more detail below, Pufendorf cites decisive religious and political reasons for refusing to treat civil authority as the expression of a distinct or higher normative source — as it is in Aristotelian conceptions of politics and Kantian conceptions of morality — because this would give rise to the dangerous view that citizens are already obligated by norms higher than those imposed by such authority. For the moment, then, we can say that Pufendorf is not compelled to (circularly) assume that the civil compact is itself normative or moral — participation in it is voluntary — for two reasons: firstly, because he regards it as instituting the *sui generis* moral domain consisting of civil authority and duties; and, secondly, because he self-consciously rejects the assumption that the personae of this domain (subjects and superior) are the bearers of some higher source of norms, whether Leibniz’s divine ideas or, by extrapolation, Korsgaard’s Kantian collective rational will.

The point of this exercise is not of course to show that Pufendorf’s conception of obligation is right and Leibniz’s and Korsgaard’s wrong; rather, it is to show that it is unhelpful to seek to understand Pufendorf’s conception by importing metaphysical assumptions and problems that he explicitly rejected. The problem Pufendorf felt compelled to confront was not Korsgaard’s Kantian problem of deriving the “authority of morality”, but the quite different one of constructing the morality of authority. Far from trying (and failing) to provide a source of obligating norms in a self-grounding rationality, Pufendorf self-consciously rejected all such attempts as contrary to the new model of civil obligation he was elaborating, and as dangerous to the legitimacy of civil authority. Of course, he may well have been wrong about this too but, again, that is beside the point. Our obligation as historians and teachers is not to comprehend Pufendorf’s model on the basis of one that we take to be right; it is rather to understand it in terms of the concepts and doctrines actually used to elaborate it, and the cultural and political purposes driving this elaboration.

Once we have taken this turn, then we can begin to teach the history of philosophical arguments over obligation. Now we can ask our students to investigate how Pufendorf, Leibniz and Barbeyrac constructed their conflicting models of obligation, and the larger cultural and political circumstances they sought to engage by doing so. How, then, might the re-edited *Whole Duty of Man* be used in this pedagogical undertaking? In answering this question I shall not of course be outlining a

concrete syllabus, but sketching a set of core issues that might inform a lecture series, a group of related case studies, or the parameters for guided project work, and so on.

3. Pufendorf's Civil Ethics

In introducing students to a contextual approach to Pufendorf's conception of obligation, one needs to begin by sketching some of the relevant features of the circumstances in which the *De officio* first appeared, the cultural and political problems that it sought to address, and the ways in which the text itself was shaped to engage these. In this initial phase, then, it would be helpful to point out that the *De officio* (1673) was written as a student abridgment of Pufendorf's massive *De jure naturae et gentium* (1672), and that this abridgment was initially intended for law and politics students in Northern European Protestant states (Sweden, Brandenburg, Prussia); even though it was fairly quickly translated into the major vernaculars of German (Weber's *Einleitung zur Sitten- und Stats-Lehre* 1691), English (Tooke's *Whole Duty* 1691), and French (Barbeyrac's *Les devoirs* 1707). In clarifying the social disposition of its first intended audience — the future civil and religious officials of Protestant territorial states — one provides pointers to both the cultural role envisaged for the text, and to the initial context in which this role was to be played out. In relation to the latter, early lectures and readings would need to offer orienting material on Pufendorf's publicistic career in the immediate aftermath of the Thirty Years War and the Treaties of Westphalia (1648) where, like other 'civil philosophers', he was preoccupied by the problem of religious civil war and the various attempts to restructure the relations between church and state in response to this problem.⁴ This setting, in which he regarded the emergent Protestant territorial states as threatened by a hostile trans-territorial Catholicism and, internally, by fissile Protestant estates and churches, is the envisaged context that Pufendorf addressed in his attempt to reconfigure politics and ethics in the *De jure* and the *De officio*.

Situated in this way, Pufendorf's moral anthropology (his conception of man as a being capable of free choice but dominated by his passions and incapable of rational self-governance), his reconstruction of civil obligation (as grounded in the exchange of obedience for protection), and his conception of civil authority or legitimate superiority/subjection (as instituted by the civil pact and disconnected from higher moral sources), start to appear in a highly distinctive light. They begin to look like a means of reconstructing politics and ethics in a manner that would free the civil

authority of emergent territorial states from potentially dangerous forms of ‘higher’ moral authority. Of particular concern to Pufendorf was the divine authority claimed by a hostile Catholic natural law and political theology, and the supra-civil moral authority claimed by Protestant political theologians, secular metaphysicians, and inner-light sectarians.⁵ This at least might form a framing hypothesis offering a way into the *Whole Duty*, and opening up a series investigative topics.

An early issue to be tackled is that of the moral idiom in which the *De officio* was composed and which finds a ready reception in the moral lexicon employed by Tooke in the *Whole Duty*. This idiom is deeply indebted to the concept of office (*officium*), understood narrowly as duty and more broadly as the capacity in which an individual acts as the bearer of delimited bundle of duties, in which sense it is close to the notion of persona as the identity assumed in a capacity.⁶ The first sentence of the *Whole Duty* contains a definition of duty — as “*That Action of a Man, which is regularly order’d according to some prescrib’d Law, which he is obliged to obey*” — which the editors of the fourth (1716) edition saw fit to explicate by adapting one of Barbyerac’s footnotes:

The ancient *Stoicks* call’d Actions by the Greek Word -----, and by the Latin OFFICIUM, and in English we use the Word OFFICE in the same Sense, when we say, *Friendly Offices*, &c. but then the Definition hereof given by the Philosophers, is too loose and general, since thereby they understood nothing but an *Action conformable to Reason*. As may appear from a Passage of *Cicero* ... (WDM: 27).

But the clearest statement of why the Philosophers’ conception of duty is insufficient comes at the beginning of Chapter 1 of Book II — “Of the Natural State of Men” — where Tooke uses “state” in the sense of condition or capacity to translate Pufendorf’s *status*:

In the next Place, we are to inquire concerning those Duties which are incumbent upon a Man with Regard to that *particular State* wherein he finds himself ordained by Providence to live in the World. What we mean by such *State*, is in general, That *Condition* or *Degree* with all its Relatives, in which Men being placed, they are therefore supposed to be obliged to these or those Performances: And such *State*, whatever it be, has some peculiar Rights and Offices thereunto belonging. (WDM: 166)

In fact Pufendorf's original does not mention providence, referring only to duties arising from the different statuses or capacities of social life (*ex diverso statu, in quo in vita communi degere deprehenditur*). Still the basic message comes through: Pufendorf regards duties as a class of actions rendered normative through occupancy of a particular status, office or persona. It is striking that he extends this understanding to the *status naturalis* itself — that is, the condition imposed on man by God and in which he finds himself prior to the existence of social institutions and civil authority — insisting that it too must be regarded as a status imposed for governing a certain class of actions, rather than as a substance or soul containing all duties.

From the outset then Pufendorf discusses duties and obligation using the moral idiom of multiple offices and personae. It is thus quite anachronistic to approach his civil ethics from a post-Kantian standpoint, in which morality is constructed in terms of maxims willed by a totality of rational beings, membership of which determines an ultimate moral identity. The different ethical landscape in which Pufendorf operates in this regard is made strikingly clear in the Preface, where he invokes the multiplicity of moral ends and offices in order to demarcate the civil domain of natural law by differentiating it from moral theology and positive law. Natural law, says Pufendorf, pertains to man in his civil persona, or “Civil Department” as Tooke has it, which is restricted to “the Compass of this life only, and so thereby a Man is informed how he is to live in Society with the Rest of Mankind”. Moral theology though deals with man in his persona as a Christian, whose end is salvation rather than sociability, and whose duties are thus distinct from those of the citizen: “Hence it is that the Dictates of the *Law of Nature* are adapted only to *Human Judicature*, which does not extend it self beyond this Life; and it would be absurd in many respects to apply them to the *Divine Forum*, which concerns itself only about Theology” (*WDM*: 19-20). The idiom of multiple moral personae thus allows Pufendorf to carve out a distinctive and delimited space of duties for natural law, now understood as civil ethics. In this *sui generis* moral domain, whose architecture is provided by the *Whole Duty*, the deepest and most divisive questions regarding access to an ultimate moral identity are deliberately nullified, while all references to God and our duties to him are subordinated to the overarching end of civil peace and the duties of sociability. To approach Pufendorf's civil ethics from a post-Kantian perspective — in terms of an ultimate moral personality formed through membership of a community of rational beings — is thus worse than anachronistic; it actually traduces Pufendorf's desacralising pluralisation of

ethics, by retrospectively imposing just the kind of ethical culture that he was intent on avoiding.

Once students have grasped the twin themes of the multiplicity of offices and the civil demarcation of natural law, it becomes possible to introduce a range of other topics for the *Whole Duty*, of which I shall mention just a few of the more significant. One set of issues is clustered around the separation of religious and civil morality and its role in relation to conflicts and controversies associated with the place of religion in the civil polity. The language of office-specific duties offers Pufendorf a flexible and powerful means for reconfiguring the relation between religious and civil identities by treating these as separate personae, each with its own normative horizon, and neither reducible to the other. Having begun by tying the persona of the Christian to the domain of theology and the end of salvation, Pufendorf is free to construct a civil persona in terms of duties derived from the end of social peace. This construction applies not only to duties to one's neighbours and oneself, but also to religious duties, insofar as these are known by natural reason rather than revelation. Pufendorf thus elaborates his "natural religion" in terms of the acknowledgment of a few basic propositions, regarding the existence of God and his providential care of the world, which are regarded as distinct from salvational religion and required solely by their role fostering civil sociability (*WDM*: 60-9).⁷

Students wishing to do further work on this question might be encouraged to read *Of the Nature and Qualification of Religion in Reference to Civil Society* (Zurbuchen 2002). Here Pufendorf establishes mutually exclusive yet complementary relations between the twin personae of the church — the teacher and learner bound together by relations of love and care exclusive of all coercive power — and those of the state, where sovereign and citizen are bound together by the relations of subjection and coercion needed to maintain civil peace. In denying the church any access to civil power, while simultaneously insisting that, under normal circumstances, the sovereign can only be a teacher or learner in the church, this work again shows the immediacy with which Pufendorf sought to address the pressing questions of confessional conflict, religious persecution, and the confessional state.

A further cluster of issues that may be approached in this way concerns the ethical basis of the state, which the *Whole Duty* formulates in terms of the transition from the natural to the civil "status". Here students can be prepared to investigate the consequences of Pufendorf's distinctive treatment of man's 'nature', as a status

gratuitously imposed by God, rather than as a rational substance or soul shared with God and capable of participating in divine reason. These consequences might be brought out through comparisons with Locke's version of the transition from the natural to the civil state. In conceiving of the natural condition as an imposed status bereft of faculties and rights, and giving rise only to the duty to cultivate sociability, Pufendorf allows no room for (Lockean) natural rights. He thus attempts to preclude the possibility of natural rights and duties being carried into the civil state, where they might be invoked by rebellious religious or moral communities as supra-civil limits to the sovereign's legitimate authority. As a result, Pufendorf formulates 'resistance' wholly in terms of the ruler's failure to fulfill the duties of the sovereign office, which betokens not a limit or sharing of civil sovereignty, but its dissolution and a return to the natural condition (Seidler 1996: 91-8). Similar consequences follow for the construction of criminal law and punishment, which Pufendorf views as wholly internal to the civil state whose security it serves, hence as disconnected from all notions of crime as immorality and punishment as restitution of natural morality within the civil order (*WDM*: 225-32). This is one of several key places where Barbeyrac sides with Locke against Pufendorf, arguing that crime and punishment are possible in man's natural state, which means that the sovereign of the civil state is only the executor rather than the source of legal norms and criminal sanctions.

To understand Pufendorf's views here one must return to his conception of offices and their institution; for only against this backdrop will students be able to grasp the distinctive character of Pufendorf's treatment of the political pact and entrance into the civil state. Pufendorf views the pact not as the expression or civil transmission of a pre-existing moral nature — a substance, soul, reason, or sociable being seeking completion in the civil state — but as the institution of a new status or persona (the sovereign/subject) on top of the natural one instituted by God. Given that in his *status naturalis* man is characterised by his uncontrolled passions and an unfulfilled need for sociability — rather than by a rational substance or soul — then the personae of sovereign and subject, instituted by the exchange of protection for obedience, indicate the creation of a new moral state of affairs, civil subjection, independent of any higher moral nature or source of norms. Students should be able to understand this independence non-anachronistically, in terms of Pufendorf's goal of providing an ethical bulwark for the civil state against its religious delegitimation,

rather than as an anticipation of modern totalitarianism; although this comparison might well serve a useful pedagogical purpose.

By approaching Pufendorf's construction of obligation via this itinerary of topics and issues, students will be better placed to understand it in terms of the intellectual instruments used to shape it, and the cultural and political circumstances to which Pufendorf was responding. They will, for example, be able to pay proper attention to the fact that this construction concerns not a universal obligation or ultimate moral identity, but pertains only to man's "Civil Deportment" insofar as "he is to live in Society with the Rest of Mankind". They will also be in a position to acquire a properly historical understanding of the "just reasons" informing the legitimate authority that imposes civil obligation, being able to view these not as faulty approximations of the laws of Aristotelian sociality or the Kantian moral law, but in terms of the exchange of obedience for protection that institutes the *sui generis* personae of superior and subject. Finally, in gaining some insight into the larger cultural and political conflicts driving Pufendorf's construction — his attempt to protect the emergent civil state against its religious and moral subversion — the students will have begun to grasp the essentially contested character of this construction. To further develop this understanding, it would be helpful to introduce Leibniz's attack into the historical mix, as this helps to illuminate not only the specific cultural-political circumstances driving Pufendorf's model, but also those fuelling Leibniz's ostensibly universal rebuttal.

4. Leibniz's Moral Universe

Students can learn a good deal about the immediate circumstances prompting Leibniz's attack on the *De officio* from the opening paragraphs of Barbeyrac's presentation and commentary (*WDMJ*: 267-9). Among other things, Barbeyrac records that Leibniz wrote his *monita* or admonition regarding the *De officio* at the request of Gerhardt Walter van den Muelen (Molanus), Abbot of Locum and Director of Brunswick-Lüneburg's Lutheran Consistory, hence a significant figure at the Hanoverian court. Barbeyrac does not mention that his request was made in 1701, when Leibniz was court historian and adviser to the Dukes of Brunswick-Lüneburg, or that Molanus explicitly asked Leibniz to comment on the suitability of Pufendorf's work as a teaching text for university students.⁸ An introductory lecture though would also need

to supplement Barbeyrac's account with a sketch of the broader circumstances in which Molanus's request was made and satisfied.

In fact this was only the latest in a series of exchanges between the two men, dating back to the 1680s, and driven by Leibniz's visionary project to reunify the divided faiths of Christendom into a new version of the universal church. Unlike Pufendorf's desacralising program, Leibniz's reunion project was at a tangent to the Westphalian settlement, which had enshrined the separate existence of the three main confessions in Imperial public law, while otherwise recognising the sovereignty of territorial states in religious matters. Leibniz viewed the division of the churches not as an irreversible political reality but as a mistake that might be corrected if the faiths could be made to cohere around a properly rational theology. A reunified church would in turn contribute to a rejuvenated Holy Roman Empire, whose variegated 'sovereignty' Leibniz refused to view as a sign of sickness or monstrosity — as Pufendorf had in his *De statu imperii Germanici* (1667) — but as a means by which the 'Hobbesian' territorial states might be reincorporated in a virtuous *Respublica Christiana* (Riley 1972: 26-33, 111-20). Despite their utopian complexion, these proposals made a degree of religious and political sense in the Hanoverian context of the 1680s, when the dukes were bidding for Imperial Electoral status; for this required that they remain open to Imperial and papal claims regarding the primacy of the 'universal' (Catholic) church (Utermöhlen 1995). Certainly this religious and political context can be strongly contrasted with Pufendorf's at the Swedish and Brandenburg courts, where he was preoccupied with defending 'frontline' Protestant territorial states, threatened externally by ultra-montane Catholicism and internally by the unruly religious estates of the Empire (Seidler 2002a).

Leibniz's attack on Pufendorf's conception of obligation and, on Pufendorf's civil philosophy more broadly, was also informed by a crucial difference in intellectual formation and outlook. In this regard students will need to be provided with a basic orientation to Leibniz's metaphysics and to the philosophical theology and natural law doctrines that he extrapolated from this metaphysics. Here again the standard Kantian accounts will not do the job, as they view Leibniz either in terms of his supposed failure to tame his epistemic rationalism through the addition of a Kantian sensibility (Beck 1969: 196-240), or in terms of his failure to modify his moral intellectualism by acknowledging the need for a commanding Kantian moral law (Korsgaard 1996a: 5-18). As Patrick Riley has argued, such accounts obscure Leibniz's profile as an early

modern Platonistic metaphysician by retrospectively imposing a Kantian silhouette (Riley 1996); even if this imposition does less damage to Leibniz, in whose footsteps Kant will follow, than to Pufendorf. In addition to Riley's own study, therefore, it might be necessary for lecturers to mediate some German studies that approach Leibniz's metaphysics as a Platonistic improvisation on scholastic metaphysics, deeply embedded in late seventeenth-century religious-cultural conflicts (Jasinowski 1972; Sparn 1986; Döring 1993).

Of course these studies provide an overview of Leibniz's doctrine of the substances or intelligibles, which he views as products of divine intellection, and as attaining consciousness in the "spiritual monads" or souls, whose unfolding in space and time constitutes the phenomenal world. More importantly, however, they allow students to approach Leibniz's metaphysics as a culture or worldview. Through the core doctrines, the metaphysician learns to view himself as participating in divine intellection, hence to view the empirical world and its sciences as mere manifestations of pure concepts or intelligibles whose disclosure is dependent on the purified intellect of the metaphysical personage (Hunter 2001: 95-147). In this regard it is important to convey that Leibniz's ethics is part of his metaphysics. He understands the *summum bonum* in terms of the purification or perfection of the intellect that occurs through transcendence of sensuous (*sinnliches*) perception and desire, and that issues in immediate intuition of the divine truths or perfections. To view Leibniz's pursuit of intellectual intuition in Kantian terms, as a theoretical error, is to misunderstand its role as the telos of specific way of relating to and shaping a self — a culture — which, like Kant's notion of membership in the noumenal community, can be neither true nor false. This culture informs Leibniz's natural law doctrine in which the metaphysical sage, transcending merely empirical conceptions of law as the sovereign's command, is rewarded with participation in the divine intellection of justice (Riley 1996: 156-69, 182-9). But it is no less central to his philosophical theology. Here Leibniz presumed that his self-purifying insight into the transcendent substances gave him the spiritual prestige to propose definitive metaphysical explications for such bitterly contested doctrines as transubstantiation, and to canvass a new unity for Christianity on the basis of his own metaphysics (Sparn 1986).

Students will thus have been introduced to what Detlef Döring has characterised as the basic difference in intellectual culture separating Leibniz from Pufendorf (Döring 1992: 138-9). If Leibniz viewed reason itself as normative, and the human as a

being capable of rational self-governance, that is because he was the inheritor of a metaphysical culture configured in terms of the metaphysician's self-transformative participation in divine intellectual intuition. In rejecting this culture, Pufendorf not only discarded the notion of normative reason and a higher rational self, but he turned his back on the whole metaphysical outlook, in which all the spheres of life and their various sciences are to be viewed from a single transcendental vantage point.

The most immediate symptom of this difference can be seen in their opposed attitudes to the relation between theology and 'philosophy' (i.e., non-revealed knowledge) that lies at the heart of metaphysics itself. Leibniz continued the longstanding pursuit of a metaphysical reconciliation of theology and philosophy which, he hoped, would provide theology with the kind of rational unifying grounds capable of restoring the universal church and the imperial *Respublica Christiana*. Pufendorf, however, begins the *De officio* by declaring that revealed and natural knowledge should not be mixed, and that the Christian and the civil subject constitute diverse moral personae, governed by the discrete ends of salvation and sociability. Drawing on the centripetal language of divine intuition, Leibniz was intent on maintaining an integral moral and ethical viewpoint from which a unified religious-moral culture might be projected onto a world order. Deploying the centrifugal language of offices and personae, however, Pufendorf's aim was to disarticulate religion and politics, the duties of the Christian from those of the civil subject, with a view to relocating civil ethics within the confines of the non-confessional territorial state whose legitimation was his paramount concern.

Having mastered this introduction to Leibniz's intellectual culture and his religious and political objectives, students will be in a position to undertake an historical interpretation of his attack on Pufendorf. They will, for example, be able to engage with the historical significance of Leibniz's criticisms of Pufendorf's separation of natural law from moral theology — or the end of civil peace from that of salvation — where they will find the following passage:

For it could not be doubted that the supreme ruler of the universe, most wise and most powerful, has resolved to reward the good and punish the wicked, and that He will execute His plan in the life to come, since in this life as we manifestly observe He leaves most crimes unpunished and most good actions unrewarded. Thus here and now to neglect consideration of the next life, inseparably linked as it is to divine providence, and to rest

content with a lower degree of natural law valid even for an atheist ... would be to deprive this legal science of its finest part and, at the same time, to destroy many of this life's duties. (*WDMJ*: 275)

Far from being a cultural throwback, Leibniz's insistence that providential rewards and punishments remain part of natural law ethics was integral to his conception of a Christian republic. For the extension of natural law into the Christian afterlife is the condition of maintaining the presence of a salvational morality in the civil domain, something that even Kant would continue in his teaching that moral regeneration depends on entering the "kingdom of ends", understood as a community of pure rational beings. Conversely, in confining natural law to the maintenance of sociability within "the Compass of this life only", Pufendorf was indeed establishing an ethics "valid even for an atheist"; for he regarded this as unavoidable when states had to govern religious communities locked in violent conflict over the true path to salvation.

A further opportunity for historical contextualisation is provided by Leibniz's criticism of Pufendorf's argument that a civil ethics should concern itself only with man's external actions, eschewing all interest in his purity of will. In rejecting Pufendorf's restriction of moral philosophy (natural law) to external civil actions, and his reciprocal restriction of moral theology to the domain of inner purity, Leibniz comments: "Yet we see that not only Christian philosophers, but also the ancient pagans, made this [inner purity] the subject of their precepts, such that even pagan philosophy is in this regard more wise, more severe and more sublime than the philosophy of our author" (*WDMJ*: 280). Leibniz continues that "it is dangerous, or at best unrealistic, for our author to imagine a corrupt heart, the external actions of which are entirely innocent", and that "internal actions" must be central to natural law because "it cannot be denied that law and obligations, sins committed against God and good deeds done in His sight alone, by their nature involve internal actions" (*WDMJ*: 284).

Again, students will grasp that they are not dealing with a superseded argument, but with an unfinished contest over the 'moral depth' appropriate for civil ethics. Leibniz's insistence that inner purity remain central to civil ethics, together with his claim that moral philosophers should be instrumental in determining this purity, indicates his rejection of moves that would restrict civil delinquency to disturbances of civil order, and helps to explain his resistance to the decriminalisation of heresy.⁹ One only has to consider Kant's restoration of purity of will to the very centre of moral

philosophy to see that this was anything but a lost cause. Conversely, “dangerous” and “unrealistic” or not, Pufendorf’s demarcation did indeed involve accepting that innocent actions might arise from a heart considered corrupt — at least when judged according to religious or metaphysical models of purity — as this was the condition for (amongst other things) removing crimes such as heresy from the law books and establishing religious toleration in the civil sphere. It also meant, of course, that purity of will would be off-limits to moral philosophers, who would be required to leave this as a matter between an individual and his confessor, restricting their attention instead to the individual’s deportment in civil life.

Finally, having traveled this route, students will be in a position to grasp the historical import of Leibniz’s attribution of circularity to Pufendorf’s construction of obligation in terms of the command of a superior — on the grounds that in invoking the superior’s “just reasons” for command Pufendorf is appealing to the very concept, justice, that he is purporting to explain. Leibniz bases this attribution, we recall, on the assumption that justice cannot be grounded in a decision or pact, as we must be able to apply the concept of justice to this decision or pact itself; and for this to be possible there must be an essential or self-grounding conception of justice, which Leibniz locates in divine intuition:

I insist, we need to recognise that God is praised because He is just, and thus there is justice in God, or rather a supreme justice, no matter that He recognises no superior, and that by propensity of His excellent nature ... He acts always as He must, such that none can with reason object. And the rule of His actions, like the very nature of justice, depends not on a free decision of His will, but rather on the eternal truths which are the objects of the divine mind and which are established, so to speak, by His divine essence. (*WDMJ*: 289)

At this point students will be able to situate this pursuit of absolute grounds for morality in the historical culture of metaphysics itself. For we have seen that metaphysics seeks self-grounding universal moral concepts (“perfections”) by lodging these in an unsurpassable moment of pure intellection — the divine mind that creates what it intelligises — and by treating human participation in this intellection as a coming to rest in a contemplation of the pure ideas that immediately conforms the will. Despite his criticism of Leibniz’s rationalistic failure to acknowledge the recalcitrance of the desires, Kant too maintained a version of this absolute contemplative conception

of morality, in his teaching that the mere thought or representation (*Vorstellung*) of the moral law should be enough to conform the will to it, thereby bringing the search for grounds to an end in self-grounding “pure practical reason”.¹⁰ From Pufendorf’s viewpoint, however, it is precisely this metaphysical culture — this conception of a self capable of purifying its will through secular philosophical participation in pure reason — that had to be rejected. For, in blurring the boundary between philosophy and theology, it tempts metaphysicians to imagine a source of civil norms higher than the exchange of obedience for protection that institutes civil authority, thereby opening the latter to religious subversion. Again from Pufendorf’s perspective, there is nothing circular in his construction of obligation because he rejects the whole idea that morality should be founded in a self-grounding universal reason. Pufendorf would thus have been at ease with Wittgenstein’s blank dictum that: “Giving grounds, though, justifying the evidence, comes to an end ... not in certain principles immediately striking us as true, i.e., as a kind of *seeing* on our part, but in our *acting*, which lies at the bottom of the language-game” (Wittgenstein 1969: 28) So, for Pufendorf, civil duties should be regarded as anchored no more deeply than in the personae of sovereign and subject, instituted to achieve a civil peace regarded not so much as self-grounding as not worth questioning.

In approaching the conflict between Pufendorf’s and Leibniz’s conceptions of obligation in this way — as symptomatic of radically different moral cultures driven by divergent religious and political commitments — students can explore the question of whether any kind of philosophical argument could demonstrate the logical superiority of either conception. This would open a pedagogical door to Schneewind’s theme that philosophical positions may triumph (or not) other than via the validity of their supporting arguments. In fact, in this case it starts to look as if the arguments deployed are integral to the divergent intellectual cultures, where their central role is to fashion a certain kind of intellectual deportment, reminding us again that Leibniz’s attack on the *De officio* was prompted by Molanus’s anxiety about its suitability as a “topic of instruction for the young” (Riley 1972: 65). If this is so, then it is less surprising that there appears to be no philosophical resolution to these arguments, which continue today despite Leibniz’s ostensible knock-out blow. Jean Barbeyrac’s attempt to mediate and adjudicate the conflict between Leibniz and Pufendorf offers students plenty of material relevant to this theme.

5. Barbeyrac's Conscience

Barbeyrac's presentation of and commentary on Leibniz's attack was appended to the fourth edition of his French translation of the *De officio, Les Devoirs de l'Homme et du Citoien*, published in Amsterdam in 1718. This formed part of his prodigious publicistic work on Protestant natural law which, in addition to the *De officio* (trans. 1707), produced translations of Pufendorf's massive *De jure naturae et gentium* (trans. 1706) and Grotius's *De jure belli ac pacis*, which Barbeyrac embedded in a continuously expanding apparatus of notes and appendices. Barbeyrac's Pufendorf editions may thus be regarded as a specific kind of reception text, making the works available to non-Latinate audiences (generally those in training for public office), and surrounding them with auxiliary materials designed to ensure that they would be read in a particular way.¹¹ What kind of mediation though was Barbeyrac performing for Pufendorf? For students to explore this question — thence the larger one of fathoming the kind of future that Barbeyrac sought to secure for Pufendorf's doctrines — it would be necessary to outline his religious and political context in a manner permitting comparison with Pufendorf's and Leibniz's.

Students would thus need to learn that Barbeyrac was a religious refugee, his Calvinist family having fled Catholic France for Switzerland thence Berlin (in 1694), following Louis XIV's revocation of the Edict of Nantes (1685); and that he commenced his translations while teaching at Berlin's French Collège, which served the sizeable Huguenot community. As the beneficiary of the Brandenburg court's policy of regulated religious toleration, Barbeyrac had reason to endorse Pufendorf's basic positions. Not only did Pufendorf's works provide an intellectual rationale for a state containing multiple, potentially conflicting religious communities but, from 1688 until his death in 1694, Pufendorf personally played an important role in shaping and administering Brandenburg's *Religionspolitik*.¹² It is not surprising then that Barbeyrac sought to disseminate Pufendorf's desacralised ethics and politics, initially to the Huguenot Diaspora (Hochstrasser 1999: 383). Neither will students be surprised to learn that the refugee was hostile to Leibniz's arguments for a metaphysically grounded civil authority, which might well turn out to be less pluralistic than Pufendorf's version of a civil authority restricted to the ground of civil peace.

Nonetheless, Barbeyrac's religious and political circumstances, no less than his religious and intellectual formation, were very different to Pufendorf's. In the first place, Barbeyrac was the servant of a metaphorical rather than a real state, the republic

of letters, to which he was connected via his participation in the *Nouveau Journal des Scavants*. Through this journal, which had been based in Rotterdam and then Berlin (1696-98), Barbeyrac would have encountered freethinking and heterodox religious and political discussion, particularly on such vital topics as heresy, toleration, church-state relations, and natural law (Othmer 1970). At the same time, though, Barbeyrac remained a member of a diasporic Calvinist community whose identity was determined almost wholly by religion and in which he expected to find a place as a teacher or minister. Suspicious of Pufendorfian natural law, and deeply concerned by the spread of the Socinian heresy among its younger community members, the Berlin Huguenot Consistory asserted orthodox Calvinist articles of faith which all candidates for clerical office were required to sign, including Barbeyrac, who was studying for the ministry while teaching at the French Collège. This was the trigger for charges of heresy to be brought against him in 1699, an episode that tells us much about both the development of heterodoxy in the Reformed Refuge and the character of Brandenburg *Religionspolitik*.

Barbeyrac had encountered and evidently been attracted to Socinian heterodoxy during his time at the University of Frankfurt/Oder in the early 1690s, and later through his participation in the milieu surrounding the *Nouveau Journal*. Focused in the denial of the trinity and its treatment of Christ as a moral teacher rather than a divine mediator — and seeking to ground these innovations in a ‘rational’ reinterpretation of the Bible — Socinianism has been regarded as the natural ‘rational religious’ complement to Pufendorfian natural law.¹³ This interpretation is not very plausible, however, as Socinianism seeks to make religion more rational — in the ‘advanced’ Calvinist sense of more like a non-sacramental ethico-theology — and thereby to maintain it as the rational religious basis of a civil ethics (Hochstrasser 1999). Pufendorf’s natural law though seeks to remove moral theology from civil ethics — by deriving the latter from social peace — while leaving revealed sacramental religion untouched in its own sphere, where the goal is salvation rather than civility.¹⁴

This helps to explain the fact that Pufendorf viewed Socinianism as a kind of sect rather than as part of a broad rationalist enlightenment, himself sitting on the tribunal assembled in 1693 to judge the heterodoxy of Friedrich Wilhelm Stosch, a Spinozist Socinian (Döring 1995). In a typical instance of Brandenburg *Religionspolitik*, Stosch was found guilty of heterodoxy and required to desist from theological publication,

then quietly restored to his former civil rank and entitlements. Similarly, while confirming the French Consistory's finding that Barbeyrac was indeed guilty of teaching Socinian heterodoxy, and requiring that he cease lecturing in theology at the Collège, in 1700 a commission of the Brandenburg Privy Council refused to countenance Barbeyrac's ex-communication and declared that he could continue to teach philological subjects as a learned and worthy man (Othmer 1970: 72-4). The commission thus separated the duties of the Christian from those of the citizen in a manner in keeping with Pufendorf's cultural-political program and, of course, with the Privy Council's interest in governing a multi-confessional state.

Taking shape in these circumstances, Barbeyrac's religious and political thought differed significantly from both Leibniz's and Pufendorf's; this observation dictating a degree of scepticism regarding the long-standing view of Barbeyrac as Pufendorf's faithful mediator and publicist. If Leibniz's updated Protestant scholasticism provoked Barbeyrac's alarm at the prospect of a new (metaphysical) version of the confessional state, then his own commitment to an ethico-theological civil order remained quietly subversive of Pufendorf's fundamental desacralisation of civil authority. When working on Barbeyrac's 'defence' of Pufendorf against Leibniz's criticisms, students can thus be asked to explore the Huguenot's covert transposition of Pufendorf's central doctrines, no less than to his overt opposition to Leibniz's.

A good source for approaching this challenging task can be found in the two other Barbeyrac texts appended to the 1718 edition of *Les Devoirs* and included in the re-edited version of the *Whole Duty*. In his *Discourse on What is Permitted by the Laws* and his *Discourse on Benefits conferred by Laws*, Barbeyrac essays his own views on the relation between positive civil law and natural law, the latter understood as a divine institution accessed via individual conscience. While incorporating Pufendorf's central theme of the restricted character of laws oriented to maintaining civil order, Barbeyrac's emphasis falls in a different place: on the ultimate insufficiency of conduct satisfying such laws, in comparison with the more comprehensive demands of conscience. A similar shift of emphasis occurs in Barbeyrac's comments on Leibniz's attack on Pufendorf for restricting natural law to external actions while consigning inner purity to the domain of moral theology. For Barbeyrac's strategy here is not to defend Pufendorf's separation, but to argue that he did not intend it to be as sharp as Leibniz implies (*WDMJ*: 280-1). In fact Barbeyrac walks a fine line, rejecting Leibniz's attempt to make inner purity an object of natural

law and civil authority, but seeking to soften Pufendorf's apparent rejection of conscience from the civil domain. Barbeyrac thus has no hesitation in rejecting Leibniz's proposal, arguing that external actions are often unreliable signs of inner purity, and observing that "the greatest number" of natural laws concern perfect or juridical right which "does not extend beyond the external act". Leibniz's worrying plan must therefore be rejected because: "Once one has done in this regard all that one was required to do, whether the internal act was as vicious as you please, nobody can ask any more of us, nor, finally, must they do so, even though the internal principle of the action by which one has acquitted oneself of what was required had something about it that the divine tribunal and our own conscience would condemn" (*WDMJ*: 281). At the same time, he refuses to exclude conscience and the divine tribunal from the civil sphere.

Covertly contradicting Pufendorf, Barbeyrac requires that the condition of the soul should play a role in civil ethics, although not in positive law, a view he then ascribes to Pufendorf. Against Leibniz, he insists that this condition not be judged by a potentially intolerant doctrinal theology, whether philosophical or confessional. Barbeyrac thus opens a space in which lawful external conduct might still be subject to a further level of inner moral judgment, although not one capable of doctrinal codification or legal enforcement. This is the space of conscience (Hochstrasser 1995; Hochstrasser 1999). Barbeyrac agrees with Pufendorf that natural law arises from God's will rather than divine reason, but he diverges from Pufendorf in his Socinian-Lockean insistence that human reason is capable of knowing and internalising this law in the form of conscience:

For from the moment that one has a just idea of God, one cannot but recognise His right to set whatever limits he pleases to the faculties He has granted us. Nor could one prevent oneself thinking that He surely wishes men to follow the light of their reason, as that which is best in them, and which alone can lead them to the destiny of their nature.
(*WDMJ*: 294)

This appeal to rational conscience as the singular source of norms is no closer to Pufendorf's doctrine of instituted moral personae than is Leibniz's appeal to participation in divine intellection. Moreover, like Leibniz, Barbeyrac wishes away Pufendorf's central themes. He thus ignores Pufendorf's view that, far from being able to access the divine will, man has just enough reason to know that sociability requires a

superior. Further, he betrays no awareness of Pufendorf's argument that the institution of the superior via the civil pact is not the realisation of man's nature, or the expression of God's, but represents instead the historical institution of new a moral persona whose commands establish the normative horizon of civil life. By retaining the notion of an ultimate moral identity capable of accessing divine law, Barbeyrac subordinates the sphere of permitted civil conduct to a higher inner morality, albeit one incapable of immediate civil enforcement. In doing so he departs fundamentally from Pufendorf's program for desacralising the civil sphere, for he thus transforms Pufendorf's permanent cleavage of civil ethics from religious morality — the persona of the citizen from that of the Christian — into a temporary caesura, across which an agile conscience might reconnect the "civil kingdom" to the "kingdom of truth".

Armed with a knowledge of this array of positions, students will be in a position to make sense of the otherwise puzzling strategy that governs Barbeyrac's commentary. This sees him loudly attacking Leibniz while quietly assimilating Pufendorf to a Lockean-Socinian political theology subversive of Pufendorf's cultural-political program. When approaching the crisis-point of Pufendorf's conception of obligation, students might notice that this strategy actually permits Barbeyrac to invert the accounts of the source of obligation given by Leibniz and Pufendorf. Disingenuously treating Pufendorf's deliberate exclusion of divine rewards and punishments as a "slight omission", Barbeyrac argues that Pufendorf was led to this by his noble conception of obligation as arising from "the impressions surely made by the mere sight of law on the heart of any reasonable person" (*WDMJ*: 277). At the same time, he ascribes to Leibniz the view that men are incapable of being motivated by mere knowledge of the law, necessitating ignoble rewards and punishments. We have seen, though, that Pufendorf's construction of obligation begins by *rejecting* the possibility that men might be obligated through mere contemplation of a higher moral law or nature, even God's. As he puts it in the *De jure*, given the waywardness of man's will, "contemplation of an essence so noble can, indeed, excite admiration, but it cannot create obligation", for which external compulsion is required (Pufendorf 1934: 100). Conversely, flying in the face of Barbeyrac's imputations, Leibniz insists that "when one does good for the love of God or one's neighbor, one finds pleasure in the act itself (such being the nature of love); one needs no other stimulant, nor the command of a superior" (*WDMJ*: 295).

Why then, students might be asked, does Barbeyrac praise Pufendorf for a doctrine he explicitly rejects — the doctrine of the contemplative self-conformation of the rational will — while attacking Leibniz for failing to embrace this doctrine, which is actually central to Leibniz's metaphysical morality? In fact Barbeyrac is well aware that Leibniz advocates a version of this doctrine, because one of his central aims in the commentary is to relegate Leibniz's intellectualist metaphysical version in favour of his own, based in the rational conscience. Against Leibniz's claim that the wise man accedes to his duties through intellectual participation in the divine mind, Barbeyrac advances his ethico-theological assertion that it is individual conscience rather than academic metaphysics that gives access to God, whom we experience via divine commands rather than divine ideas (*WDMJ*: 291-5). Despite the Kantian view of this as another version of the philosophical dispute between rationalism and voluntarism, it is clear that Barbeyrac's objection to Leibniz's rationalism is to a rival religious-moral deportment rather than to a false theory. Not only does Leibniz's version of rational self-governance underestimate the countervailing force of man's passions and his consequent need for direction by a higher will, but it fails to capture (what is for Barbeyrac) the most noble way of acceding to obligation: namely, unconditional submission to the divine will as the will of a perfect being:

Whoever has a true idea of God knows that He is good, as well as great, and that His will necessarily conforms with His perfections; wise and holy, He can will nothing that is not just and which, moreover, is not for our good. ... To conform to this wholly good and sacred will, on which we recognize that we depend, is to act according to duty; this is what imposes moral necessity on all men, regardless of any other consideration. Hope or fear are only motives to encourage us to practice duty, to overcome the resistance we may find within us, and to sustain us in the midst of strong temptations. (*WDMJ*: 296)

With this wholly un-Pufendorfian, theistic conception of the superior in place, Barbeyrac concludes by rebutting Leibniz's allegations of circularity against Pufendorf's construction of obligation. For Barbeyrac, there is no need for Pufendorf to (circularly) posit a conception of justice independent of the superior's will, because justice is immanent to the divine will; in the sense that by willing in accordance with his perfect nature, God, the ultimate superior, can do nothing unjust.

In so willing, however, it is God who creates the natural right from which all earthly superiors derive the justification of their laws:

Every superior, below God, bears an authority founded on reasons, the justice of which derives from a certain law of natural right, being related to the rules of that justice whose obligation truly emanates from the will of a superior, or from the will of the king of kings and the lord of lords. But this supreme being's right of command is founded in reasons whose justice is immanent, such that they do not need to draw their force from elsewhere. (*WDMJ*: 302)

While this might provide a coherent theological response to Leibniz's political theology — relegating justice as a transcendent idea governing God's will in favour of justice as the consequence of God's perfect willing — it neither elucidates nor supports Pufendorf's reconstruction of civil authority. On the contrary, Barbeyrac's 'defence' subverts this reconstruction by returning earthly superiors to a subordinate position in relation to transcendent moral right, thereby threatening civil authority with the religious and moral undermining that Pufendorf had sought to neutralise.

For Barbeyrac, the "just reasons" underpinning civil authority or the earthly superior are expressions of a Lockean natural right, instituted by a morally self-grounding divine superior, and acceded to by rational conscience. They are thus quite unlike Pufendorf's just cause for civil authority — the exchange of obedience for protection — which gives rise to a superior whose commands institute civil norms. Yet Pufendorf's refusal to distinguish his superior as divine or human, coupled with his post-facto treatment of natural law as imposed by God, has led some scholars to treat Pufendorf as sharing with Barbeyrac a "genuine divine command theory of morality" (Saastamoinen 1995: 107). It has led others back to the quasi-Leibnizian view that, without a properly transcendent conception of the superior, Pufendorf's conception of the just superior must (circularly) assume the concept of justice that it is purporting to derive (Palladini 1990: 22-3).

It needs to be kept in mind, however, that Pufendorf's construction of legitimate superiority comes after the demarcation arguments of the preface, in which he deliberately excludes from the domain of civil ethics all revealed knowledge of God, and all conceptions of duties and right attached to the end of salvation. Not only does this show why Barbeyrac's salvational conception of natural right is precluded by Pufendorf's construction, it also reminds us of what it is in this construction that pre-

empties the charge of circularity: namely, Pufendorf's explicit rejection of the metaphysical demand for a self-grounding moral principle, and his treatment of civil obligation as internal to the personae created by the civil pact. Having excluded metaphysical reason as the higher source of civil obligation Pufendorf was in no mood to admit Lockean right and Calvinist conscience in its place. For Pufendorf the pact that creates the superior is not a luminous moment in which a higher reason or a higher will delegates its justice to the civil sovereign via a community bearing natural rights. Rather this event takes place on the flat plains of history where men, cut off from transcendent insight and fearful of mutual predation, institute a superior to whom they have transferred their will for social peace.

The justice of Pufendorf's superior is thus indeed immanent to his commands, but in a manner quite unlike Barbeyrac's "lord of lords and king of kings". For Barbeyrac, justice is immanent to the divine superior's commands because these declare the will of a morally perfect creator to his imperfect creatures, imbuing them with the rights on which civil authority is founded. For Pufendorf, however, civil morality is immanent to the superior's commands not because he is moral, and not because the exchange of obedience for protection itself is moral. Rather, this pact, driven by exigency and fear not reason and conscience, opens a new area of 'moral space' — the one that emerges when individuals place their reason and conscience in matters pertaining to social peace at the disposal of a civil superior — inside which individuals come to occupy the new persona of the political subject. Pufendorf's superior thus also presides over an autonomous moral universe, but one invented or instituted by men intent on resetting the norms of civil ethics within the horizon of civil peace, in order to defend civil authority against the schoolmen and the man of conscience.¹⁵

Conclusion

One can imagine concluding this extended study or, more likely, inaugurating a new one, by giving students some sense of the fortunes of the intellectual cultures represented in Barbeyrac's presentation of the conflict between Leibniz and Pufendorf. Students might explore, for example, the progressive Barbeyracian transformation of Tooke's 1691 translation, with the re-edited fourth edition of 1716 containing not just the Lockean footnotes from Barbeyrac's 1707 edition, but also Barbeyrac's unauthorised interpolations designed to produce a more Lockean text.¹⁶ Leibniz's

attack, which was not added to the Tooke's translation until 2002, thus probably had little impact on the English reception of Pufendorf, whereas Barbeyrac's stealthy Lockean transposition of Pufendorf's arguments may well have found its mark, particularly in the Whig circles for which it was probably intended. Leibniz's metaphysical critique of Pufendorf's central doctrines seems, however, to have had greater success in the Scottish environment. Here, in the *Supplements and Observations* to his 1724 Latin edition of the *De officio*, Gershom Carmichael warned his Glaswegian students against Pufendorf's separation of natural law from moral theology, endorsing Leibniz's account of their harmony in terms of the divinity's perfection and providence as known by natural reason (Moore and Silverthorne 2002: 17).

Students might conjecture then that in Glasgow it would have been possible to teach Leibniz's demonstration of Pufendorf's circularity as a philosophical truth, whereas in London it is likely that Pufendorf's construction of obligation would have been assimilated to Barbeyrac's, so the question of circularity would remain mute or moot. In neither city though would Leibniz and Pufendorf have been regarded as the reciprocally deficient (rationalist and voluntarist) predecessors of a Königsberg metaphysician hovering in the wings of history. That view would have to wait until a modified version of Leibniz's metaphysical ethics took root in the Protestant universities of 18th century Germany from whence, having been transformed by Kant, it would pass to America during the 19th century and impose itself retrospectively during the 20th. It would be a significant contribution to their intellectual equanimity were our students able to understand this latter development in terms of the local triumph of a certain kind of intellectual culture, circumscribed by particular national religious, political and academic circumstances, and co-existing with the flourishing of rival cultures in other institutional settings and moral worlds. But that of course would take more than a single course.

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- ¹ Barbeyrac transformed Leibniz's continuous discourse by interpolating his own counter-arguments and commentary, and by retitling it *Jugement d'un Anonyme sur l'original de cet Abrégé*, the *Judgment of an Anonymous Writer on the Original of this Abridgement*, which I shall cite as *WDMJ*.
- ² In this instance I am quoting from Tooke's original 1691 translation (p. 28-9), in order to avoid the unauthorised interpolations, made by Barbeyrac, and introduced into Tooke's translation by the editors of the 1716 edition. For more, see footnote 6 in the Hunter and Saunders edition (p. 45). The reader should also compare, in this and other instances, with Michael Silverthorne's accurate modern English translation (Pufendorf 1991).
- ³ There is no need to discuss here the difference between 'realist' (Leibnizian) and 'constructivist' (Kantian) versions of the foundations of morality, as this difference was moot for those involved in the historical debate.
- ⁴ Student-friendly overviews are provided by Tully (1991), Seidler (2002b), and Hunter and Saunders (2002). There is no standard biography of Pufendorf, but important materials towards one can be found in Döring (1992).
- ⁵ For a discussion in these terms that situates Pufendorf in the broader context of Protestant natural law, see the important essay by Haakonssen (2003). For a broad overview of natural law thought see Hunter (2002b), and for more detailed treatments see Tuck (1987), Haakonssen (1996), and Hochstrasser (2000).
- ⁶ Conal Condren has recently completed a major study of the idiom of office — *Of Oaths and Offices: The Presuppositions of Political and Moral Argument in Early-Modern England* — which I have been fortunate to see in draft form. For earlier published studies on this theme, see Condren (1997; 2001).
- ⁷ Pufendorf's natural religion thus contrasts sharply with the natural theologies elaborated Leibniz, Wolff and Kant, which were understood as philosophical reconstructions of salvational religious doctrine designed to make the promise of moral regeneration available in a secular register.
- ⁸ One can however gather this from Patrick Riley's edition and translation, which should be used in tandem with Barbeyrac's version as given in the appendix to the *Whole Duty* (Riley 1972: 64-75).

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- ⁹ This resistance is manifest in his *c.* 1698 rejection of Thomasius's Pufendorfian argument that heresy should not be treated as a crime (Leibniz 1948). Thomasius had argued that heresy was often just unpopular religious belief and was at worst a form of spiritual corruption with no direct bearing on civil duties or actions. For further discussion see Hunter (2001: 146-7).
- ¹⁰ Consider this passage from Kant's *Groundwork of the Metaphysics of Morals*:
 Everything in nature works in accordance with laws. Only a rational being has the capacity to act *in accordance with the representation* of laws, that is, in accordance with principles, or has a *will*. Since reason is required for the derivation of actions from laws, the will is nothing other than practical reason. If reason infallibly determines the will, the actions of such a being that are cognised as objectively necessary are also subjectively necessary, that is, the will is a capacity to choose *only that* which reason independently of inclination cognises as practically necessary, that is, as good. (Kant 1996: 66), original emphasis.
 For further discussion see Hunter (2002a).
- ¹¹ For an overview of Barbeyrac's role in this regard, Sieglinde Othmer's study contains much that would be of use for introductory contextualising lectures (Othmer 1970).
- ¹² We obtain an excellent snapshot of Pufendorf's role in this regard from Döring's account of his part in the Stosch affair (Döring 1995).
- ¹³ For this interpretation see Oestreich (1979) and Othmer (1970: 54-9, 68-81).
- ¹⁴ Unlike 'rational Dissent', Pufendorf's separation of church from state did not hinge on denying Christ's divinity — hence the church's role as Christ's mystical body on earth — but operated much more directly, by giving church and state discrete ends, salvation and social peace. In the event, Pufendorf's proved to be the more far-reaching desacralisation of politics as, unlike Socinian-Lockean radicalism, it excluded even Christ the moral teacher from the political sphere, confining the teaching office to the religious domain, and denying that the prince could rule in the name of moral truth.
- ¹⁵ For a compelling discussion of the completely conventional character of Pufendorf's construction, see Haakonssen (2003).

¹⁶ These interpolations, and excisions, are recorded in the notes to the Hunter and Saunders edition.

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